

Cody, Karen

From: Mckinley, Lisa
Sent: Thursday, May 01, 2014 7:57 AM
To: Lapierre, Kenneth
Cc: Daniels, Teresa; Alexandra Batin; lamckinley@yahoo.com; McKinley, Stephen
Subject: Please Confirm Detail has been extended

Importance: High
Sensitivity: Confidential

Yesterday, I was informed by my supervisor Steve Scofield that my detail was being extended but he did not have any of the specifics (since he is just returning from sick leave). Would you please confirm that the detail is being extended and provide the specifics regarding the detail.

Lisa Ann McKinley

Environmental Scientist
Children's Environmental Health Program,
U.S. Environmental Protection Agency
Region IV, 61 Forsyth St., SW, 12th Floor
Atlanta, GA 30303
404.562.9403
mckinley.lisa@epa.gov

CONFIDENTIALITY NOTICE

This message is intended exclusively for the individual(s) or entity(s) to which it is addressed. This communication may contain information that is proprietary, privileged, or confidential, or otherwise legally exempt from disclosure. If you are not the named addressee(s), you are not authorized to read, print, retain, copy or disseminate this message or any part of this message. If you have received this message in error, please notify the sender immediately by e-mail and delete all copies of this message

Suggested Work Activities for Lisa Mckinley to support the CEH Program
April 16, 2014

1. Coordinate training on utilization of Environmental Health Curriculum: *Recipes for Healthy Kids and a Healthy Environment*. This training, which was developed for the Boys and Girls Clubs of America (BGCA), will be targeted for the all Regional CEH Programs, Region 4 staff, educators and organizations that plan to use this curriculum. A video of the training will also need to be prepared and edited for future training (June 25 & 26, 2014).
2. Promotion and implementation of this curriculum to the BGCA, 4H, and schools in Metro Atlanta including CSKYWLA. Curriculum implementation will also be promoted for communities and groups in Region 4 that have been identified for additional support by EPA (Atlanta Promise Neighborhood, Birmingham, AL, Hattiesburg, MS, Memphis, TN, and the Cherokee Tribe).
3. Planning activities for Children's Health Month which will focus on Children's Environmental Health Educational Programming throughout Region 4.
4. Coordinate the Earth Day activities at the Cherokee Middle School (April 21 & 22, 2014).
5. Coordinate program activities for the STEM Day Program at CSKYWLA (May 9, 2014).
6. Coordinate EPA programming activities at the Cobb County 4H Earth Day Program (May 3, 2014).
7. Update the CEH Resource Tool Kit.

Cody, Karen

From: Toney, Anthony
Sent: Thursday, May 01, 2014 3:32 PM
To: Mckinley, Lisa
Cc: Scofield, Steven; Kemker, Carol; Lapierre, Kenneth; Dorsey, Carol
Subject: Suggested Work Activities for Lisa Mckinley to support the CEH Program 4-16.docx
Attachments: Suggested Work Activities for Lisa Mckinley to support the CEH Program 4-16.docx

Lisa,

This email is to inform you that we have completed the process to extend your Detail Opportunity in the Children's Environmental Health Program for 90 days effective April 17, 2014 and will expire on July 19, 2014.

The work activities/projects for which you are expected to complete and/or accomplish are attached to this email.

Please coordinate with Steve Scofield to establish a more complete schedule of deliverables.

If you have any questions regarding this detail extension, please stop by my office or give me a call at x9085.

Thanks,
Tony Toney

Cody, Karen

From: MURRAY, TERESA
Sent: Monday, May 12, 2014 10:20 PM
To: Lapierre, Kenneth
Subject: Amended EEO Complaints Documents Request

Hi Ken

Here is the additional information requested by the investigator for the LMckinley complaint. Please provide by May 20, 2014. Thanks

1. Name of all witnesses to each event that contributed to the disciplinary or adverse action.
2. If applicable, complainants written reply to the proposed suspension; or if an oral reply was made, provide any memoranda documenting the oral reply.

Teresa Murray, EEO Specialist
X28291

Cody, Karen

From: Janet L. Jurach <janetlj@comcast.net>
Sent: Monday, June 23, 2014 2:27 PM
To: Lapierre, Kenneth
Subject: Urgent: Affidavit for McKinley EEO
Attachments: Lapierre Affidavit.doc; CertificationPage-generic.doc

Mr. LaPierre,

As explained on your voicemail today, I am a contract EEO investigator for EPA and have been assigned to investigate an EEO complaint filed by Lisa Ann McKinley regarding the accepted issues to be investigated that are listed at the bottom of the email. Since you have been named as having involvement with some of the accepted issues, an affidavit is required to be completed by you. Please type or write your answers to each question on the attached affidavit. Once you have completed the affidavit, please print it and sign and date the bottom of each page of the affidavit. Be sure to write the total number of pages of your affidavit at the top of the first page of the affidavit. Also attached is the Certification Page. Please sign and date the bottom of the Certification Page in the Declaration Section and put the total number of pages of your completed affidavit in the top blank on the page. Please return your completed affidavit and Certification Page to me within 14 days of receipt of this email. You may fax (804-237-0447) OR scan via email your completed, signed affidavit to me. Then, please mail the original documents to the following address:

**Janet Jurach
PO Box 667
Goochland, VA 23063-0667**

If you have any questions or concerns, please do not hesitate to contact me.

Thank you, in advance, for your cooperation,

Janet

Issues accepted for investigation:

Complainant alleges she was discriminated against and subjected to hostile work environment harassment, based on her race (White), religion (Catholic), and National Origin (Portuguese) when: a) On August 21, 2013, her 1st level supervisor, Ms. Naima Halim-Chestnut, Region 4 Equal Employment Opportunity Officer, issued a Guidance Notice to her; b) On October 23, 2013, her supervisor, Ms. Halim-Chestnut, issued a Letter of Reprimand to her; c) On January 31, 2014, her supervisor, Ms. Halim-Chestnut, refused to immediately remove the Letter of Reprimand from her official personnel file. Complainant further alleges she experienced continued harassment and retaliation when: d) On March 11, 2014, her supervisor, Ms. Halim-Chestnut, sent a harassing email to her; and e) On May 7, 2014, Mr. Kenneth LaPierre, Deputy Assistant Regional Administrator, issued her a Notice of Proposed Suspension for failure to follow supervisory instructions and breach of privacy and disclosure of confidential information.

--

*Janet L. Jurach
Contract EEO Investigator
Tel: (804) 556-7125*

Fax: (804) 237-0447

Confidential & Privileged

This message is intended only for the use of the addressed recipient and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient you are notified that any distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify me immediately, delete this communication from any computer or network system, and destroy all copies.

EEO Investigative Affidavit (Witness)

Page No.
1

No. Pages
7

Case No.
2014-0005-R-04

1. Affiant's Name (First, Middle, Last)

Kenneth LaPierre

2. Employing Facility

Region 4

3. Position Title

**Deputy Assistant Regional
Administrator**

4. Grade Level

5. Work Address and ZIP+4

**61 Forsyth Street, SW
Mail Code: 9T25
Atlanta, GA 30303-8960**

6. Unit Assigned

Region 4

Privacy Act Notice

Privacy Act Notice. The collection of this information is authorized by the Equal Employment Opportunity Act of 1972, 42 U.S.C. § 2000e-16; the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 633a; the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794a; and Executive Order 11478, as amended. This information will be used to adjudicate complaints of alleged discrimination and to evaluate the effectiveness of the EEO program. As a routine use, this information may be disclosed to an appropriate government agency, domestic or foreign, for law enforcement purposes; where pertinent, in a legal proceeding to which the Agency is a party or has an interest; to a government agency in order to obtain information relevant to an Agency decision concerning employment, security clearances, contracts, licenses, grants, permits or other benefits; to a government agency upon its request when relevant to its decision concerning employment, security clearances, security or suitability investigations, contracts, licenses, grants or other benefits; to a congressional

office at your request; to an expert, consultant, or other person under contract with the Agency to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during an official audit of the Agency's finances; to an investigator, administrative judge or complaints examiner appointed by the Equal Employment Opportunity Commission for investigation of a formal EEO complaint under 29 CFR 1614; to the Merit Systems Protection Board or Office of Special Counsel for proceedings or investigations involving personnel practices and other matters within their jurisdiction; and to a labor organization as required by the national labor Relations Act. Under the Privacy Act provision, the information requested is voluntary for the complainant, and for the Agency's employees and other witnesses.

7. Statement

Complainant alleges she was discriminated against and subjected to hostile work environment harassment, based on her race (White), religion (Catholic), and National Origin (Portuguese) when:

a) On August 21, 2013, her 1st level supervisor, Ms. Naima Halim-Chestnut, Region 4 Equal Employment Opportunity Officer, issued a Guidance Notice to her;

b) On October 23, 2013, her supervisor, Ms. Halim-Chestnut, issued a Letter of Reprimand to her;

c) On January 31, 2014, her supervisor, Ms. Halim-Chestnut, refused to immediately remove the Letter of Reprimand from her official personnel file.

Complainant further alleges she experienced continued harassment and retaliation when:

d) On March 11, 2014, her supervisor, Ms. Halim-Chestnut, sent a harassing email to her;

e) On May 7, 2014, Mr. Kenneth LaPierre, Deputy Assistant Regional Administrator, issued her a Notice of Proposed Suspension for failure to follow supervisory instructions and breach of privacy and disclosure of confidential information.

Q1. What is your full name? (first, middle initial and last)

A1.

Q2. State your position title, pay grade, work unit, work location address, work telephone number, and work email address.

A2.

I declare under penalty of perjury that the foregoing is true and correct.

Affiant's Signature

Date Signed

Q3. Are you aware of Ms. McKinley's race? If yes, identify her race (presumed) and indicate when and how you became aware of her race. If not, what do you perceive her race to be?

A3.

Q4. What is your race?

A4.

Q5. Are you aware of Ms. McKinley's religion? If yes, identify her religion (presumed) and indicate when and how you became aware of her religion. If not, what do you perceive her religion to be?

A5.

Q6. What is your religion?

A6.

Q7. Are you aware of Ms. McKinley's national origin? If yes, identify her national origin (presumed) and indicate when and how you became aware of her national origin. If not, what do you perceive her national origin to be?

A7.

Q8. What is your national origin?

A8.

Q9. Are you aware of Ms. McKinley being involved in prior EEO activity? If so, indicate when and how you became aware of her prior EEO activity.

A9.

I declare under penalty of perjury that the foregoing is true and correct.

Affiant's Signature

Date Signed

EEO Investigative Affidavit (Continuation Sheet)	Page No. 3	No. Pages 7	Case No. 2014-0005-R-04
---	----------------------	-----------------------	----------------------------

Q10. Have you been named by Ms. McKinley as a Responding Management Official (RMO) or witness in a prior EEO complaint that she filed? If so, identify the case number(s); identify the issue(s) involved in the complaint; and explain your involvement in her EEO activity?

A10.

Q11. When and how did you become aware of this EEO complaint?

A11.

Q12. Have you participated in any EEO activity? (EEO activity includes filing a charge, testifying, assisting another, or participating in a discrimination proceeding; or otherwise opposing discrimination.). Please identify the case number(s) and date(s) for your EEO activity.

A12.

Q13. What was your work relationship with Ms. McKinley from August 2013 through March 14, 2014? (Immediate supervisor, second level supervisor, no work relationship, etc.)

A13.

Claim c): Ms. McKinley alleges she was subjected to discrimination and hostile work environment harassment based on her race (White), religion (Catholic), and National Origin (Portuguese) when: c) On January 31, 2014, her supervisor refused to immediately remove the Letter of Reprimand from her official personnel file.

Q14. Did Ms. McKinley or anyone else request that you remove her Letter of Reprimand, dated October 23, 2013, from her official personnel file? If so, indicate who made the request; when and why the request was made; and what response, if any, you provided to them and why.

A14.

If you were not aware that Ms. McKinley requested that her Letter of Reprimand be removed from her official personnel file, please write "Not Applicable" for answers #15-21.

Q15. During the period of January through February 2014, did you refuse to remove the Letter of Reprimand immediately? If so, why?

A15.

I declare under penalty of perjury that the foregoing is true and correct.

Affiant's Signature

Date Signed

EEO Investigative Affidavit (Continuation Sheet)	Page No. 4	No. Pages 7	Case No. 2014-0005-R-04
---	----------------------	-----------------------	----------------------------

Q16. Has Ms. McKinley's Letter of Reprimand been removed from her official personnel file? If so, indicate who removed it; and explain when and why it was removed.

A16.

Q17. What policy and/or regulation(s) was/were relied upon in determining to not remove Ms. McKinley's Letter of Reprimand, dated October 23, 2013, from her official personnel file? **(Explain what these policies say).**

A17.

Q18. Was Ms. McKinley's race a factor when her Letter of Reprimand, dated October 23, 2013, was not immediately removed from her official personnel file? If so, explain.

A18.

Q19. Was Ms. McKinley's religion a factor when her Letter of Reprimand, dated October 23, 2013, was not immediately removed from her official personnel file? If so, explain.

A19.

Q20. Was Ms. McKinley's national origin a factor when her Letter of Reprimand, dated October 23, 2013, was not immediately removed from her official personnel file? If so, explain.

A20.

Q21. Was Ms. McKinley's EEO activity a factor when her Letter of Reprimand, dated October 23, 2013, was not immediately removed from her official personnel file? If so, explain.

A21.

Claim e): Ms. McKinley alleges she was subjected to continued harassment and retaliation when: e) On May 7, 2014, Mr. Kenneth LaPierre, Deputy Assistant Regional Administrator, issued a Notice of Proposed Suspension to Complainant for failure to follow supervisory instructions and breach of privacy and disclosure of confidential information.

I declare under penalty of perjury that the foregoing is true and correct.

Affiant's Signature

Date Signed

EEO Investigative Affidavit (Continuation Sheet)	Page No. 5	No. Pages 7	Case No. 2014-0005-R-04
---	----------------------	-----------------------	----------------------------

Q22. Was Ms. McKinley issued a Notice of Proposed Suspension on May 7, 2014? If yes, please describe your involvement with issuing the Notice of Proposed Suspension to Ms. McKinley. If not, please identify by name, title, and work location the management official(s) who was/were responsible for issuing the Notice of Proposed Suspension to her.

A22.

Q23. Why was a Notice of Proposed Suspension issued to Ms. McKinley on May 7, 2014?

A23.

Q24. Ms. McKinley alleges she should not have been issued the Notice of Proposed Suspension because discussing the name of the person who was voluntarily involved in a mediation (not part of an EEO case or investigation) was not confidential information. Is this accurate? Explain.

A24.

Q25. Ms. McKinley alleges that the penalty of a 5 day suspension is excessive. Explain why a 5 day suspension was proposed instead of a reprimand or shorter suspension.

A25.

Q26. Has a decision letter been issued regarding the Proposed Suspension? If so, indicate when the decision letter was issued; who issued it; and what the decision was regarding the Proposed Suspension.

A26.

Q27. What policy and/or regulation(s) was/were relied upon when Ms. McKinley was issued a Notice of Proposed Suspension on May 7, 2014? **(Explain what these policies say).**

A27.

Q28. Was Ms. McKinley's race a factor when she was issued a Notice of Proposed Suspension on May 7, 2014? If so, explain.

A28.

I declare under penalty of perjury that the foregoing is true and correct.

Affiant's Signature

Date Signed

EEO Investigative Affidavit (Continuation Sheet)	Page No. 6	No. Pages 7	Case No. 2014-0005-R-04
---	----------------------	-----------------------	----------------------------

Q29. Was Ms. McKinley's religion a factor when she was issued a Notice of Proposed Suspension on May 7, 2014? If so, explain.

A29.

Q30. Was Ms. McKinley's national origin a factor when she was issued a Notice of Proposed Suspension on May 7, 2014? If so, explain.

A30.

Q31. Was Ms. McKinley's EEO activity a factor when she was issued a Notice of Proposed Suspension on May 7, 2014? If so, explain.

A31.

Q32. Please list any other employees under your chain of command who were given a Notice of Proposed Suspension for similar conduct as Complainant during the period May 2012 through May 2014. Please provide each employee's full name, position title, series, pay grade, race (presumed), religion (presumed), and national origin (presumed); indicate whether each employee has any EEO activity, if known; and indicate when each incident occurred.

A32.

Q33. Please list any other employees under your chain of command who allegedly failed to follow supervisory instructions, breached privacy, and/or disclosed confidential information and were not given a Notice of Proposed Suspension during the period of May 2012 through May 2013. Please provide each employee's full name, position title, series, pay grade, race (presumed), religion (presumed) and national origin (presumed); indicate whether each employee has any EEO activity, if known; and explain why each employee was not issued a Notice of Proposed Suspension.

A33.

I declare under penalty of perjury that the foregoing is true and correct.

Affiant's Signature	Date Signed
---------------------	-------------

EEO Investigative Affidavit (Continuation Sheet)	Page No. 7	No. Pages 7	Case No. 2014-0005-R-04
---	-----------------------------	------------------------------	--

Q34. Did Ms. McKinley (or anyone acting on behalf of Ms. McKinley) advise you that your actions constituted harassment and/or a hostile work environment? If yes, on what date did you become aware of this allegation; what were you told; and what was your response and why?

A34.

Q35. Are you aware of Ms. McKinley (or anyone acting on behalf of Ms. McKinley) notifying any other management official(s) about the alleged harassment? If so, whom did he/she inform of his/her concerns and on what date did he/she notify the management official?

A35.

Q36. Was an investigation conducted into Ms. McKinley's allegation of harassment? If so, explain when the investigation was conducted; who conducted the investigation; and what the outcome of the investigation was (ex: discipline was issued)? If an investigation was not conducted into Ms. McKinley's allegation of harassment, explain why an investigation was not conducted.

A36.

Q37. Have you received training on anti-harassment/hostile work environment while employed by the EPA? If so, when did you receive the training?

A37.

Q38. What specific policy or contract provision(s) govern harassment in the workplace? (**Explain what these policies say**).

A38.

----- END OF QUESTIONS -----

I declare under penalty of perjury that the foregoing is true and correct.

Affiant's Signature

Date Signed

Certification

Case No.
2014-0005-R04

I have read the foregoing attached statement, consisting of _____ pages, and it is true and complete to the best of my knowledge and belief. In making this statement, I understand Section 1001, Title 18 of the U.S. Code which states:

"Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both."

Privacy Act Notice

Privacy Act Notice. The collection of this information is authorized by The Equal Employment Opportunity Act of 1972, 42 U.S.C. 2000e-16; The Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C.633a; The Rehabilitation Act of 1973, as amended, 29 U.S.C. 794a; and Executive Order 11478, as amended. This information will be used to adjudicate complaints of alleged discrimination and to evaluate the effectiveness of the EEO program. As a routine use, this information may be disclosed to an appropriate government agency, domestic or foreign, for law enforcement purposes; where pertinent, in a legal proceeding to which the Agency is a party or has an interest; to a government agency in order to obtain information relevant to an Agency decision concerning employment, security clearances, contracts, licenses, grants, permits or other benefits; to a government agency upon its request when relevant to its decision concerning employment, security clearances, security or suitability investigations, contracts, licenses, grants or other benefits; to a congressional office at your request; to an expert, consultant, or other person under contract with the Agency to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during an official audit of Agency finances; to an investigator, administrative judge or complaints examiner appointed by the Equal Employment Opportunity Commission for investigation of a formal EEO complaint under 29 CFR 1614; to the Merit Systems Protection Board or Office of Special Counsel for proceedings or investigations involving personnel practices and other matters within their jurisdiction; and to a labor organization as required by the National Labor Relations Act. Under the Privacy Act provision, the information requested is voluntary for the complainant, and for Agency employees and other witnesses.

Declaration

I declare, under penalty of perjury, that the foregoing is true and correct.

Signature of Affiant

Date Signed

Form 2571
October 2005

